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A patently good idea Guard your intellectual property

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By Jane Larson

Emerging companies may think to patent the software they've developed. But trademarking the company name or copyrighting the CEO's signature?

Taking key steps to protect a company's intellectual property is gaining importance as counterfeiting and piracy increase around the world, says Jon Dudas, undersecretary of Commerce for intellectual property and director of the U.S. Patent and Trademark Office. Dudas was in Phoenix this week for the office's Conference on Intellectual Property in the Global Marketplace, and he sat down with The Arizona Republic to discuss the issues.

Question: How bad is the problem of intellectual-property theft?

Answer: It's a tremendous problem. The U.S. Chamber of Commerce estimates \$250 billion of copyright piracy alone - that's movies, software, albums - and 750,000 job losses in the copyright industry alone.

It's particularly problematic for small businesses who don't have the resources and teams of lawyers. But small businesses do have a lot of resources within government. We can't represent them, but we can explain what options they have.

Q: What are the most common mistakes companies make in the area of intellectual-property protection?

A: The most common mistake is not considering intellectual property at the time you organize your business. Their name is intellectual property, and they should get a trademark on it. Or many times they have an idea that should be copyrighted, but they're so busy worrying about how to grow the business that they're not worrying about protecting that investment.

Q: What steps should they take?

A: Consider whether you have intellectual property and definitely apply for patents, trademarks and copyrights of the United States. Be vigilant, know what you have, know when and where to apply.

It gets a little more complex when you consider international, what markets might you go into later, because your intellectual property rights don't travel. If you have a patent in the United States, you're protected in the United States but nowhere else in the world. So

consider where you want to file, and just like every other business decision, there are risks and rewards.

It becomes even more complex when you think about what countries you need protection in, not because you plan to do business there, but because that country might copy your product.

Q: What is the U.S. government doing to help reduce piracy in China?

A: In the past 18 months, the climate has gone from the Chinese government denying there was a problem to them recognizing it to having a national campaign to agreeing to more criminal prosecutions.

So I see the climate improving, but small businesses need to understand they need to file for protection in China. They can't avail themselves of any laws, enforced well or not, unless they've at least availed themselves of protection.

President Bush put together the STOP initiative, Strategy for Targeting Organized Piracy. The secretary of Commerce, the attorney general, all are all working together to figure out what more we can do.

We have a STOP hotline (1-866-999-HALT). We do everything from going in with specific examples and working with the Chinese to doing broad training for Supreme Court justices and Customs officials.

Q: From the Patent Office viewpoint, what can be done to encourage innovation in the United States?

A: The United States is known as being a country with a lot of breakthrough technology, and it's still true today. Our future is going to be based on our ideas.

Math and science education is critically important. What I find even more important is teaching kids how important it is to innovate and how failure is OK. We're going to have a national campaign in the schools to explain innovation and respect for intellectual property.

We found if we get to kids about middle-school age, that is the right time to get the message out. So they can become small-business owners and export throughout the world.